

BEFORE THE ARIZONA BOARD OF  
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY

In the Matter of:	)	Case No. 2661
	)	
ROBERT MICHAUD, D.O.	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW AND</b>
Holder of License No. 2045 for the	)	<b>STIPULATED CONSENT ORDER</b>
Practice of Osteopathic Medicine and	)	
<u>Surgery in the State of Arizona.</u>	)	

**STIPULATION**

By mutual agreement and understanding, the Arizona Board of Osteopathic Examiners (hereafter "Board") and Robert Michaud, D.O. (hereinafter "Respondent"), the parties hereto agree to the following disposition to this matter.

1. Respondent acknowledges that he has read this Stipulation and the attached Consent Order; and, Respondent is aware of and understands the content of these documents.
2. Respondent understands that by entering into this Stipulation, he voluntarily relinquishes any rights to a hearing on the matters alleged as grounds for Board action or to seek judicial review of the stipulated consent order in state or federal court.
3. Respondent understands that this Stipulation and Consent Order will not become effective unless approved by the Board and signed by its Executive Director.
4. Respondent further understands that this Stipulation and Consent Order, once approved and signed, shall constitute a public record that will be disseminated as a formal action of the Board.
5. Respondent understands the statement of facts and conclusions of law contained in the stipulated Consent Order.

6. All admissions made by Respondent are solely for immediate disposition of this matter pending any administrative proceedings involving the Board, Respondent and the State of Arizona.

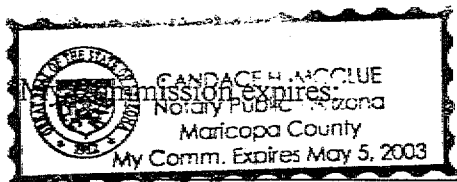
7. Respondent acknowledges and agrees that upon signing and returning this document (or a copy thereof) to the Board's Executive Director, he may not later revoke or amend this Stipulation or any part of the Consent Order, although said Stipulation has not yet been accepted by the Board and issued by its Executive Director, without first obtaining Board approval.

REVIEWED AND ACCEPTED this 21<sup>st</sup> day of ~~October~~ <sup>November</sup>, 2000.

Robert Michaud, D.O.  
Robert Michaud, D.O.

STATE OF ARIZONA       )  
                                      ) ss  
County of Maricopa       )

~~November~~ The above-named individual acknowledged this instrument before me this 21<sup>st</sup> day of ~~October~~, 2000.



Candace H. McClue  
Notary Public

REVIEWED AND APPROVED as to form by counsel for Respondent on this 27<sup>th</sup> day of ~~October~~ <sup>November</sup>, 2000.

C. S. Blakey  
Craig Blakey

REVIEWED AND SIGNED this \_\_\_\_\_ day of October, 2000 for the Board by:

\_\_\_\_\_  
Ann Marie Berger, Executive Director  
Arizona Board of Osteopathic Examiners in  
Medicine and Surgery

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS  
IN MEDICINE AND SURGERY

In the Matter of:	)	Case No. 2661
	)	
ROBERT MICHAUD, D.O.	)	<b>CONSENT ORDER</b>
	)	
Holder of License No. 2045 for the	)	
Practice of Osteopathic Medicine and	)	
<u>Surgery in the State of Arizona.</u>	)	

INTRODUCTION

The Board of Osteopathic Examiners in Medicine and Surgery (hereafter "Board") investigated allegations of unprofessional conduct in Case No. 2661. Pursuant to its statutory authority at A.R.S. § 32-1855(E), in Case No. 2471, the Board held an Informal Interview on June 19, 1999. During the course of that proceeding, Robert Michaud, D.O. (hereinafter "Respondent") was present and represented by legal counsel, Kraig Marton. Based upon Respondent's testimony and documentary evidence submitted to the Board, the Board issued Findings of Fact, Conclusions of Law and a Board Order on July 9, 1999 for probation with terms including a suspension of his license.

The Board reviewed Case No. 2661 at an Informal Interview on October 16, 1999. During the course of these proceedings, Respondent was present and not represented by legal counsel. Based upon Respondent's testimony and documentary evidence submitted to the Board, the Board voted to hold a formal administrative hearing. A complaint and Notice of Hearing was issued on February 1, 2000 informing respondent that the hearing would be held on March 4, 2000 at 11:00 a.m.

On March 4, 2000 Respondent entered into a Stipulation and Consent Order maintaining

the suspension of Respondent's license pending further investigation into allegations of possible impairment and/or health related problems that might hinder Respondent's ability to practice medicine.

### FINDINGS OF FACT

1. Respondent is the holder of License No. 2045 authorizing him to engage in the practice of osteopathic medicine in the State of Arizona.
2. On June 17, 1999 the Board opened Case No. 2661 based upon the following information:
  - a. On June 17, 1999 the Board received an allegation that Respondent voluntarily surrendered his medical license in Alaska. The agreement of voluntary surrender states that questions exist concerning the validity of Respondent's answer to the question on application relating to whether or not Respondent was under investigation by another state board or agency. At the time of the Alaskan application, there was an active investigation going on in Utah. The agreement was signed in lieu of possible revocation or other licensing action.
  - b. Upon review of Respondent's Arizona licensing file, his 1996 renewal application listed "No" to question number five regarding action or pending action on your license in another state. Respondent signed his renewal application on December 6, 1996 and the Board received it on December 23, 1996.
  - c. Respondent received his petition and notice of Agency Action from the State of Utah on November 21, 1996. Irene Gayheart from the Utah Bureau of Investigation stated that Respondent was interviewed regarding allegations of unprofessional conduct as early as August 1995.
3. On June 19, 1999 Respondent appeared before the Board with his legal counsel at the Informal Interview and testified that he had not done anything unprofessional and had complied with all the requirements that the State of Utah had imposed on him. Respondent also stated that Utah terminated his probationary order and his license was currently in good standing.

4. On February 23, 2000 Respondent's attorney, Craig Blakey, II, informed the Board that the Respondent had recently been treated at Sierra Tucson Rehabilitation Center for depression and chronic use of prescribed medications for anxiety and pain.

5. In Board Case No. 2471, the Board Order required Respondent to fulfill continuing medical education requirements. Respondent did not comply with all of the CME requirements (pre-approval) that were mandated by the Board on July 9, 1999.

6. On July 5, 2000 Respondent missed a urine drug screen as required by the Stipulation and Consent Order dated March 4, 2000. The Board viewed a "missed" urine drug screen as a positive urine drug screen. Respondent followed up with a negative test within a week, upon notification by Board staff.

#### CONCLUSIONS OF LAW

1. Pursuant to Arizona Revised Statutes § 32-1800, et seq., the Arizona Board of Osteopathic Examiners in Medicine and Surgery has subject matter and personal jurisdiction in this matter.

2. Pursuant to Arizona Revised Statutes §§ 32-1855(B), (C) and § 41-1061(D), enter a Stipulated Consent Order for the suspension of a license and medical, physical and mental examinations.

3. Based upon the Findings of Fact set forth above herein, the Board concludes that it has the requisite factual basis and legal authority for Respondent to continue the suspension of his license.

4. The Respondent engaged in unprofessional conduct as defined in A.R.S. § 32-1854, by violating state statutes and regulations:

- (6) Procuring or attempting to procure a license to practice osteopathic medicine by fraud or misrepresentations.
- (26) Violating a formal order, probation or stipulation issued by the Board under this chapter.

**ORDER**

Pursuant to the authority vested in the Board, **IT IS HEREBY ORDERED THAT:**

1. Respondent's Board License Number 2045 for the practice of osteopathic medicine and surgery in the State of Arizona continue to be placed on **SUSPENSION** which was effective July 9, 1999, until Respondent provides documentation showing continuing medical education ("CME") for the past three years in the area of dermatology as testified to on October 14, 2000.
2. Upon successful production of the above-referenced dermatological CME, Respondent will be placed under **PROBATION** for five (5) years and he shall comply with the terms and conditions of probation as set forth herein:
3. From the date of this Order, Respondent shall obtain psychiatric or psychological treatment by a therapist(s) who is either a licensed psychiatrist and/or psychologist and is selected by Respondent and approved by the Board. Respondent shall comply with the therapist recommendation for the frequency of therapy treatment sessions. Respondent shall inform the Board by letter (mailed within ten days of the date of this Order) of the therapist's name; and, Respondent shall undertake and fully cooperate with a program of treatment established by the therapist. In the event Respondent changes therapists, he shall give the Board written notice within ten (10) days of said action. Respondent shall not discontinue or reduce the frequency of psychotherapy sessions until he has submitted a written request to the Board and obtained Board approval.

4. Respondent's therapist(s) shall receive a copy of this Order and Board Staff shall cooperate with and disclose all relevant information in the Board's files concerning Respondent. The treating therapist shall be directed by Respondent to send to the Board a detailed written progress report every month for the remainder of the probation; and Respondent, shall waive any confidentiality concerning his psychotherapy in order that the Board may receive full disclosure of information. The expense of the aforementioned therapy and the reports to the Board by Respondent's therapist shall be the sole responsibility of the Respondent.

5. Respondent shall provide a copy of this Order and any subsequent Orders to all facilities where Respondent is currently (or subsequently) employed as a physician and/or has (or subsequently receives) privileges to engage in the practice of medicine; and, Respondent shall continue to make the aforementioned disclosure and provide copies of this Consent Order until the expiration of this Order. Respondent shall also provide a copy of this Order to all treating physicians and therapists for the remainder of his probation.

6. Respondent may have his license to practice as an osteopathic physician restricted, suspended or revoked, pursuant to statute, by the Board in the future if:

- (A) The Board finds that Respondent does not have the requisite mental, physical and emotional fitness to safely continue the practice of medicine; or,
- (B) There are new grounds for finding unprofessional conduct concerning Respondent; or,
- (C) Fails to comply fully with the terms and conditions of this Order.

7. Respondent shall abstain completely from the consumption of alcoholic beverages; and, Respondent shall not consume illicit drugs or take any controlled substances

(i.e., prescription only drugs). unless such medication is prescribed for him by his treating physician. Respondent shall maintain a monthly log (for the duration of probation) of all prescription only drugs taken by him and such log shall include the following information:

- (a) the name of the medication;
- (b) name of prescribing physician;
- (c) reason for the medication.

At the first of each month, Respondent shall report by letter to the Board whether or not he is taking any prescription only medication and, if so, a copy of his log reflecting the above information.

8. Respondent shall also, as part of his probation: (A) submit to and cooperate in any independent medical or psychological evaluation that is ordered by the Board for Respondent and conducted by the Board's designated physician and/or psychologist which shall be paid for by Respondent; and (B) appear before the Board, upon receipt of a request by written or telephonic notification from the Board's executive director which shall be given at least five (5) days prior to the Board meeting; and, (C) submit to random biological fluid testing and promptly provide (i.e., within sixty (60) minutes of notification) required biological fluids for testing and said testing shall be done at the Respondent's expense.

9. Dr. Michaud shall obtain a minimum of twenty (20) hours of **CONTINUING MEDICAL EDUCATION** ("CME") credit, in the following areas: five hours of ethics, five hours of dermatology, five hours of inappropriate prescribing and five hours of maintaining medical records. The CME shall be fulfilled within one year of the date of this Order. Respondent shall submit to the Board's Executive Director documentation for the Board's approval of the continuing education courses prior to participation in these programs. Respondent shall submit to the



minimum statutory requirement for renewal of Board license as specified at A.R.S. § 32-1825(B).

10. In the event Respondent moves and ceases to practice medicine in Arizona, he shall give written notice to the Board of his new residence address within twenty (20) days of moving; and, the terms and duration of probation may be stayed by the Board until Respondent returns to practice medicine in Arizona.

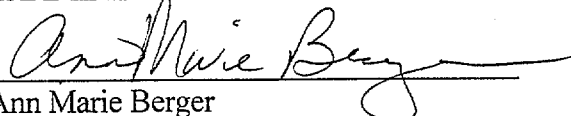
11. Respondent shall reimburse the Board for all expenses associated with the investigation, hearing and continued monitoring of this matter.

12. Respondent shall continue to meet all licensing requirements such as continuing medical education and renewal requirements including applicable fees pursuant to A.R.S. § 32-1825.

13. Respondent's failure to comply with the requirements of this Order shall constitute unprofessional conduct as defined at A.R.S. § 32-1854(26), as amended, and may be considered as grounds for further disciplinary action (e.g., suspension or revocation of license) in the event that Respondent fails to comply with any of the requirements of this Order.

Effective this 14th day of October, 2000.

ARIZONA BOARD OF OSTEOPATHIC  
EXAMINERS IN MEDICINE AND SURGERY

  
Ann Marie Berger  
Executive Director

Copy mailed by U.S. certified mail  
(return receipt requested) this 22<sup>nd</sup>  
day of October, 2000 to:

Robert Michaud, D.O.  
3319 E. University  
Apt. 341  
Mesa AZ 85213

Copy mailed this 22<sup>nd</sup> day of  
October, 2000 to:

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*Celina Shepherd, Compliance Officer*